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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/780,020	02/08/2001	Justin Y. Lee	17929-0002	7404

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EXAMINER

CUFF, MICHAEL A

ART UNIT PAPER NUMBER

3627

DATE MAILED: 12/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/780,020

Applicant(s)

LEE ET AL.

Examiner

Michael Cuff

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 26 November 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-9, 11-2, and 14-22 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 1-9, 11-2, and 14-22 show a series of steps which are grounded in the abstract idea of, for example, conveying, determining, and completing. The broadly recited steps do not recite sufficient computer structure that are within "technological arts". Therefore, they do not satisfy the statutory requirements of 35 USC 101. See *In re Toma*, 197 USPQ 852 (CCPA 1978).

The changes to fix this issue are relatively minor. For example, changing network to an electronic network would meet the requirement. Notice that claim 13 is fine because it recites a distribution computing device.

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cho et al. in view of Kleiman.

Cho et al. shows all of the limitations of the claims except for specifying the use of HTTP protocol, a web browser and the step of requesting updated scheduling files from the display system.

Cho et al. shows, figure 6 and columns 9-12, a point of purchase video (POS data) distribution system. The system is a video media distribution network including (1) a distribution center (display administrator) which transmits video program segments to the receiving sites, (2) receivers which receive the segments, (3) a tracking system which tracks the product movement at the receiving sites, (4) a network management system which forms playlists (storing a plurality of multimedia presentations) for each of the receiving sites in response to inputs from a user, and (5) display units which display the playlists in the receiving sites. The user, located in the distribution center, has access to the product movement information. The system uses video clips, a "wheel" concept (scheduling file), playlist, "playlist sockets", and a "store and forward" feature. The wheel is a cycle of time that represents the format which video clips are packaged. A wheel can be played over and over. A wheel may fill a "playlist socket", which defines a start, and end time automatically (determining schedule). The "store and forward" feature allows video segments to be stored in the receiving site and later forwarded to the display unit automatically by the system's network management software. Figure 6 shows a flowchart, which allows one to; depending on level of access, customize displays. (scanning, determining/assigning and modifying)

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When playlists are created or updated, the program determines which additional video clips are needed at the stores and sets a pending flag (determines if a change has been made, timestamp or creation date is inherent). The pending flag remains with these additional video clips until they are uplinked to the store, which needs them.

UPLINK loads the Uplink Form 295, (upload/download, transferring) which compiles the information required at the receiving sites for the playlists. MODEM loads the Modem Form 264, which gives the user elaborate modem communication with all the stores, which allows user to update playlists and perform system maintenance.

FIG. 6 is a process flow chart of the system's Socket Management Form (a remote storing computing device). Playlist sockets are places where a "wheel" (site-specific presentation, tab-delimited format, converting retrieved data into a form useful for populating respective fields) can be placed. When the user selects the PLAYLISTS option, the program enters the Socket Management Form 262 or 263, depending on the user's security level, and displays a list of all store sites, the list of sockets for store no. 1, as a default, and a list of all the available playlists 265. The user can then move through the list of stores displaying (playing presentation) the sockets for each store in the process. The Store Info Database and the Playlist Database provide the information needed for this display.

The user can then select from the available playlists to fill sockets of a particular store site 266. Each store site has its own number of sockets. For example, if a store is displaying 30-minute wheels of playlists for 18 hours, the store has 36 sockets, which must be filled with wheels of playlists. At this point, the user can also edit a playlist

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and/or create a new playlist depending on the user's security level. To edit a playlist, the Edit Playlist Form 267 is loaded.

Kleinman teaches a system for selectively distributing music to a plurality of jukeboxes. The system includes the step of sending a request automatically for updated music from said jukebox to a central storage location, based on said statistics determined in said jukebox in order to better serve the customer.

Based on the teaching of Kleinman, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to modify Cho et al. network communication system to incorporate the ability of Klenman to request updates initiating from the display system in order to better serve the customer.

The examiner takes Official notice that the use of HTTP protocol and a web browser are well known in the art and are used in order to provide better network communication.

Based on the discussion above, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to modify Cho et al. network communication system to incorporate the use of HTTP protocol and a web browser in order to provide better network communication.

***Response to Arguments***

2. Applicant's arguments filed 11/26/04 have been fully considered but they are not persuasive.

Applicant asserts that the prior art does not teach scheduling files. The examiner does not concur. Please re-read rejection, specifically in regards to the "wheel" concept and playlists.

Applicant asserts that the current rejection does not teach all the limitations of the claims, and therefore, fails to establish a prima facie case. The examiner does not concur. Please re-read the rejection.

Applicant repeats scheduling file argument. See above.

Applicant asserts that there is no motivation to combine the references. The examiner does not concur. Both references handle multimedia packages. Kleinman is merely suggesting that a request for a change can be generated from the user level. It makes sense that Cho et al. would accept requests from the user level in order to better serve the final customer.


Applicant's representative is encouraged to phone the examiner. In light of the prosecution history, there appears to be a disconnect in how the applicant and the examiner are reading the prior art as it relates to the claim language.

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**Conclusion**

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Cuff whose telephone number is (703) 308-0610. The examiner can normally be reached on 8:00 to 5:30. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on (703) 308-5183. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

 12/9/04  
Michael Cuff  
December 09, 2004